

Before the
Federal Communications Commission
Washington, DC 20554

In re Application of)	
)	
Tri-County Radio, Inc.)	File No. BAPH-20110211ADY
Assignor)	
)	
and)	
)	
Midwest Communications, Inc.)	
Assignee)	
)	
For Assignment of Construction Permit)	

TO: Honorable Marlene H. Dortch
Secretary of the Commission

ATTN: Chief, Media Bureau

**CONSOLIDATED OPPOSITION TO PETITION TO DENY AND INFORMAL
OBJECTION**

Tri-County Radio, Inc. ("TRI"), by its attorneys, pursuant to Section 1.45 and 73.3584 of the Commission's rules, hereby opposes the petition to deny, filed on March 14, 2011, by Seehafer Broadcasting Corporation ("SBC") and the informal objection, filed on March 16, 2011, by Cub Radio, Inc. ("CRI") (collectively, "Petitioners"), regarding the above-captioned application for consent to assignment of construction permit for a new, un-built station. In support of such consolidated opposition the following is set forth.

1. TRI was granted a construction permit (BPH-19970127MB) for a new FM station on 98.9 MHz at Two Rivers, Wisconsin, on December 16, 2010; public notice of such grant was made on December 21, 2010 in Broadcast Actions Report Number 47387. Accordingly, any petitions for reconsideration of such grant were due on or before January 20, 2011. As will be discussed below, Petitioners do not raise any substantive matter pertaining to the above-captioned application for consent to assign, but, rather, raise speculative and unsupported objections to the construction permit authorization to be assigned; as the time for opposing TRI's

construction permit or reconsideration of such grant has long since expired, petitioners filings should be summarily dismissed and/or denied.

2. The TRI construction permit authorizes operation from a new antenna tower (antenna Structure Registration Number 1275515); on April 1, 2010 the FAA issued a Determination of No Hazard to Air Navigation as to such antenna tower which is set forth as an attachment. The FAA study also considered the frequency and power of TRI's proposed facilities and its no hazard determination contains no frequency or power conditions.¹

3. Although TRI's facilities have yet to be constructed and placed in operation, petitioners assert that transmissions from TRI's proposed facilities will combine with the existing transmissions of WQTC-FM, 102.3 MHz, Manitowoc, Wisconsin, WLKN, 98.1 MHz, Cleveland, Wisconsin, and WLTU, 92.1, Manitowoc, Wisconsin, resulting in intermodulation interference which will require filtering.² These allegations are pure speculation and unsupported by any engineering showings.

4. WLTU is 12.3 kilometers (7.6 miles) from the location of TRI's construction permit, WQTC-FM is 12.3 kilometers (7.6 miles) distant, and WLKN is 7.3 kilometers (4.5 miles) distant. Based on these distances of separation of transmission facilities, it is highly unlikely that there will be mixing products between the stations which would require filtering.³

5. CRI also takes issue with TRI's coverage of Two Rivers, Wisconsin, its city of license stating that it "had to use a 'non-standard means' to prove that it could even provide a City-Grade Signal (3.16 mV/m) over Two Rivers" and opines that, because of coverage and intermodulation issues, TRI ought to consider a change in community of license. As much as Petitioners may wish that TRI's permit would be relocated, even to a different city of license, Petitioners have no basis to request such change, particularly in the context of an application for

¹ CRI's allegations that TRI's proposed facilities will cause interference to the ILS at Manitowoc County Airport are in direct conflict with the FAA's no hazard determination and are without basis in fact. Accordingly, TRI sees no need to address these allegations.

² SBC requests that any consent to assign the TRI's permit be conditioned to require that TRI or the assignee be responsible for any costs of filtering.

³ Filtering is usually recommended when stations are co-located and in some cases when the stations are in very close proximity (less than a mile) and close in frequency which is not the case here. All FM transmission facilities must comply with Section 73.317 of the rules; until the transmission facilities are constructed and tested, there is no way to verify compliance.

consent to assign such permit. TRI's coverage of Two Rivers is consistent with Commission rules and policies and has been approved by the staff in granting TRI's construction permit.

6. TRI submits that Petitioners' intermodulation and coverage concerns are without merit, even bordering on frivolous, and nothing more than an attempt to forestall competition; accordingly, their petition and informal objection should be summarily dismissed and/or denied, and the above-captioned assignment application granted.

Respectfully submitted

TRI-COUNTY RADIO, INC.

By:



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Its Attorneys

March 22, 2011



Federal Aviation Administration
Air Traffic Airspace Branch, ASW-520
2601 Meacham Blvd.
Fort Worth, TX 76137-0520

Aeronautical Study No.
2010-AGL-1481-OE
Prior Study No.
2001-AGL-3482-OE

Issued Date: 04/01/2010

Mark Heller
Mark Heller, Agent
1414 16th Street
Two Rivers, WI 54241

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Antenna Tower Tri-County Radio, Inc Tower Project
Location:	Manitowoc, WI
Latitude:	44-01-33.94N NAD 83
Longitude:	87-41-42.60W
Heights:	240 feet above ground level (AGL) 892 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

As a condition to this Determination, the structure is marked and/or lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, paint/red lights - Chapters 3(Marked),4,5(Red),&12.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office any time the project is abandoned or:

☐ At least 10 days prior to start of construction (7460-2, Part I)
☒ Within 5 days after the construction reaches its greatest height (7460-2, Part II)

This determination expires on 10/01/2011 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates , heights, frequency(ies) and power . Any changes in coordinates , heights, and frequencies or use of greater power will void this determination. Any future construction or alteration , including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (310) 725-6591. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2010-AGL-1481-OE.

Signature Control No: 692189-124349426
Tamera Burch
Technician

(DNE)

Attachment(s)
Frequency Data

cc: FCC

Frequency Data for ASN 2010-AGL-1481-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
98.9	98.9	MHz	6	kW

CERTIFICATE OF SERVICE

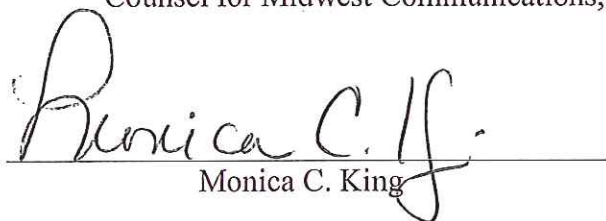
I, Monica C. King, herby certify that a true and correct copy of the foregoing
“Consolidated Opposition to Petition to Deny and Informal Objection” was sent by first-class,
postage prepaid mail this 22nd day of March 2011 to the following:

Peter Doyle, Esq.*
Chief, Audio Division, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20054

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